

### **REMARKS**

Claims 2, 4-8, 13, 15-20, 23-29, and 32-41 were pending in the application after entrance of the Preliminary Amendment, filed March 9, 2009. Claims 6-8, 17-18, 30-31, and 36-39 have been withdrawn from consideration by the Examiner. Claims 2, 4, 5, 13, 15, 16, 19, 20, 23-29, 32-35, 40 and 41 have been rejected. Claims 2, 4, and 5 are amended by the present Amendment, and claims 6-8, 17-20, 25-27, 30-33, 35-39, and 41 are canceled by the present Amendment. No new claims have been added. Applicant submits that no new matter has been added to the present Application by this Amendment. Applicant respectfully requests reexamination and reconsideration of the case, as amended. Each of the rejections levied in the Office Action is addressed individually below.

#### **Claim Objections**

The Examiner has objected to claims 2, 4, 5, 13, 15, 16, 19, 20, 24-29, 32-35, and 41 because they contain non-elected subject matter. Claims 2, 4, and 5 have been amended to remove non-elected subject matter. Claims 13, 28, and 34 depend from claim 4; claims 15 and 24 depend from claim 2; claim 16 depends from claim 15; and claim 29 depends from claim 28. Claims 19-20, 25-27, 32-33, and 35 are canceled by the present Amendment. Applicant submits that the claims as amended do not include non-elected subject matter. Accordingly, withdrawal of the objection to claims 2, 4, 5, 13, 15, 16, 19, 20, 24-29, 32-35, and 41 is respectfully requested.

#### **Claim Rejection under 35 U.S.C. § 112**

The Examiner rejected claims 25-27, 35, and 41 under 35 U.S.C. § 112, first paragraph, for lack of enablement. The Examiner maintains that the specification, while enabling for *in vitro* induction of cytokine biosynthesis, does not reasonably provide enablement for *in vivo* induction of cytokine biosynthesis. Applicant disagrees; however, Applicant, without conceding to the correctness of the Examiner, has canceled without prejudice claims 25-27, 35, and 41. The Examiner's rejection is thereby rendered moot.

**CONCLUSION**

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, the Director is hereby authorized to charge any deficiency, or credit any overpayment, to our Deposit Account No. 23/2825, under Docket No. C1271.70050US01 from which the undersigned is authorized to draw.

Dated: October 15, 2009

Respectfully submitted,

By /C. Hunter Baker/  
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